



BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

Arizona Corporation Commission

DOCKETED

AUG 06 2009

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

DOCKETED BY

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IN THE MATTER OF THE APPLICATION
OF INETWORKS GROUP, INC., FOR A
CERTIFICATE OF CONVENIENCE AND
NECESSITY TO PROVIDE COMPETITIVE
RESOLD LOCAL EXCHANGE AND RESOLD
LONG DISTANCE
TELECOMMUNICATIONS SERVICES.

DOCKET NO. T-20639A-08-0579

DECISION NO. 71219

ORDER

Open Meeting
July 28 and 29, 2009
Phoenix, Arizona

BY THE COMMISSION:

* * * * *

Having considered the entire record herein and being fully advised in the premises, the Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

FINDINGS OF FACT

1. On November 17, 2008, iNetworks Group, Inc. ("iNetworks" or "Company"), filed with the Commission an application for a Certificate of Convenience and Necessity ("CC&N") to provide competitive resold local exchange and resold long distance telecommunications services within a service area encompassing the entire State of Arizona ("Application").

2. On March 26, 2009, iNetworks withdrew the tariff filed with the Application and filed a new tariff.

3. On May 26, 2009, iNetworks filed replacement pages to its tariff.

4. On March 27, 2009, iNetworks filed its Affidavit of Publication indicating that it had published notice of the Application on March 16, 2009, in *The Arizona Republic*.

5. On June 26, 2009, the Commission's Utilities Division Staff ("Staff") filed its Staff Report recommending approval of iNetworks' Application.

Fitness and Properness to Obtain a CC&N

6. iNetworks is an Illinois "S" corporation, granted authority on November 22, 2006, to do business in Arizona as a foreign corporation.

7. iNetworks is in good standing with the Commission's Corporations Division.

8. iNetworks does not currently hold a CC&N to provide telecommunications services in Arizona and is not providing telecommunications services in Arizona.

9. iNetworks has indicated that neither iNetworks nor any of its officers, directors, partners, or managers have been or currently are involved in any civil or criminal investigations, have had judgments entered in any civil or criminal matter or levied by any administrative or regulatory agency, or have been convicted of any criminal acts within the past 10 years.

10. iNetworks has indicated that neither iNetworks nor any of its officers, directors, partners, or managers have been or currently are involved in any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.

11. At the time of iNetworks' Application, the Company indicated that it provides resold telecommunications services in 17 states. In the interim, iNetworks advised Staff that the Company has applied for and/or received approval to provide resold telecommunications services in seven additional states.

12. Staff contacted the Public Utilities Commissions ("PUCs") in eleven of the states in which iNetworks currently provides service to inquire about the Company's history of customer complaints. The PUCs reported no customer complaints in any of those jurisdictions. Staff's search of the Federal Communications Commission's website found that there have been no formal or informal complaint proceedings involving iNetworks.

13. Finally, Staff notes that the Utilities Division's Consumer Services Section reported no complaints, inquiries, or opinions filed against it within Arizona.

Technical Capabilities

14. iNetworks intends to offer resold telecommunications services of AT&T and Qwest to subscribers in Arizona. According to Staff, the Company maintains a 24/7 Customer Service Call

Center in Chicago, Illinois, that will accommodate all customer concerns, complaints and repair inquiries.

15. iNetworks' key personnel have a combined total 34 years of telecommunications experience.

16. Based on its findings, Staff has determined that iNetworks has sufficient technical capabilities to provide resold local exchange and resold long distance telecommunications services in Arizona.

Financial Resources

17. iNetworks provided Staff with financial statements for the for the 12-month period ending December 31, 2007. This financial statement lists assets of \$1,788,746.24, equity of \$285,362.04, and a net income of \$405,491.66.

18. iNetworks provided its projected total revenues and operating expenses from its provision of telecommunications services to Arizona customers for the first 12 months of operations to Staff under seal.

19. iNetworks projects the net book value of all Arizona jurisdictional assets and the projected value of all Arizona assets after the first 12 months of operations to be zero.

20. If iNetworks were to experience financial difficulty, it would have only a minimal impact on its customers because many companies provide resold long distance telecommunications services, and facilities-based providers are also available. Also, iNetworks customers will be able to access alternative toll service providers or resellers via 1+101XXXX access.

Proposed Rates

21. Staff indicates that the rates proposed by iNetworks are for competitive services and rates for competitive telecommunications services are generally not established according to rate-of-return regulation.

22. Staff has determined that iNetworks' fair value rate base ("FVRB") is zero. While Staff considered the FVRB information submitted by iNetworks, Staff determined that the FVRB information should not be given substantial weight in its analysis.

23. As a reseller of services purchased from other telecommunications companies,

iNetworks will have no market power and will have to compete with other providers to obtain subscribers to its services. In light of this competitive market, Staff believes that iNetworks' proposed tariffs will be just and reasonable.

24. Staff has reviewed iNetworks' proposed rates and determined that they are just and reasonable.

25. iNetworks' tariff indicates that it will not collect advance payments, deposits, and/or prepayments from its resold long distance customers. As such, Staff concludes that iNetworks is not required to have a performance bond or irrevocable sight draft letter of credit for its resold long distance services.

26. iNetworks also desires to provide resold local exchange service. In order to protect the Company's Arizona customers, Staff recommends that iNetworks should acquire a performance bond or irrevocable sight draft letter of credit equal to \$25,000.

27. Staff recommends that iNetworks file the original performance bond or irrevocable sight draft letter of credit with the Commission's Business Office and file copies with Docket Control, as a compliance item in this docket, within 30 days of the effective date the Decision in this matter. The performance bond or irrevocable sight draft letter of credit will remain in effect until further order of the Commission.

28. If iNetworks wishes to discontinue service, it must file an application with the Commission pursuant to Arizona Administrative Code ("A.A.C.") R14-2-1107. Additionally, the Company must notify each of its customers and the Commission 60 days prior to filing an application to discontinue service. Failure to meet these requirements could result in forfeiture of the Company's performance bond or irrevocable sight draft letter or credit.

Competitive Services

29. Staff states that there are alternatives to iNetworks' services, the Company will have to convince potential customers to purchase its services, and the Company has no ability to adversely affect the local exchange or interexchange service markets. As such, Staff recommends that the Company's proposed services be classified as competitive.

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Regulatory Requirements

30. Commission rules require iNetworks to file a tariff for each competitive service that states the maximum rate as well as the effective (actual) price that will be charged for the service. Under A.A.C. R14-2-1109(A), the minimum rate for a service must not be below the total service long-run incremental cost of providing the service. Any change to iNetworks' effective price for a service must comply with A.A.C. R14-2-1109, and any change to the maximum rate for a service in iNetworks' tariff must comply with A.A.C. R14-2-1110.

31. A.A.C. R14-2-1204(A) requires all telecommunications service providers that interconnect to the public switched network to provide funding for the Arizona Universal Service Fund ("AUSF"). A.A.C. R14-2-1204(B)(3)(a) requires new telecommunications service providers that begin providing toll service after April 26, 1996, to pay AUSF charges as provided under A.A.C. R14-2-1204(B)(2).

32. A.A.C. R14-2-1901 et seq. establish requirements to protect Arizona consumers from unauthorized carrier changes ("slamming") and apply to each public service corporation providing telecommunications services within the State of Arizona and over which the Commission has jurisdiction.

33. A.A.C. R14-2-2001 et seq. establish requirements to protect Arizona consumers from unauthorized carrier charges ("cramming") and apply to each public service corporation providing telecommunications services within the State of Arizona and over which the Commission has jurisdiction.

34. A.A.C. R14-2-1107 requires a competitive telecommunications service provider to file an application for authorization with the Commission before it discontinues service; the rule also establishes customer notice requirements and other requirements related to discontinuance of service.

Staff's Recommendations

35. Staff recommends approval of iNetworks' Application and further recommends:

- a. That iNetworks be ordered to comply with all Commission rules, orders, and other requirements relevant to the provision of intrastate telecommunications service;
- b. That iNetworks be ordered to comply with Federal laws, Federal rules and

A.A.C. R14-2-1308(A), to make number portability available;

- c. That iNetworks be ordered to abide by the quality of service standards approved by the Commission for Qwest in Docket No. T-01051B-93-0183;
- d. That iNetworks may not bar access to alternative local exchange service providers who wish to serve areas where the Company is the only provider of local exchange service facilities;
- e. That iNetworks be ordered to provide all customers with 911 and E911 service, where available, or will coordinate with ILECs and emergency service providers to provide 911 and E911 service in accordance with A.A.C. R14-2-120(6)(d) and Federal Communications Commission 47 CFR Sections 63.3001 and 64.3002;
- f. That iNetworks be ordered to notify the Commission immediately upon changes to its name, address, or telephone number;
- g. That iNetworks be ordered to cooperate with Commission investigations, including but not limited to customer complaints;
- h. That iNetworks' fair value base rate is zero;
- i. That if at some future date, iNetworks wishes to collect advances, deposits and/or prepayments from its resold interexchange service customers, iNetworks should be ordered to file an application with the Commission for approval. The application must reference this Decision;
- j. That if iNetworks wish to discontinue and/or abandon its service area, it must provide notice to both the Commission and its customers, in accordance with A.A.C. R14-2-1107;
- k. That iNetworks be ordered to offer Caller ID with the capability to toggle between blocking and unblocking the transmission of the telephone number at no charge;
- l. That iNetworks be ordered to offer Last Call Return service that will not return calls to telephone numbers that have the privacy indicator activated;
- m. That iNetworks services be classified as competitive;
- n. That iNetworks be authorized to discount its rates and service charges to the marginal cost of providing the services; and
- o. That iNetworks be ordered to do the following and that its CC&N be rendered null and void, after due process, if it fails to do the following:
 - i. iNetworks shall docket conforming tariffs for each service within its CC&N within 365 days from the date of an Order in this matter or 30 days before providing service, whichever comes first. The tariffs

submitted shall coincide with the Application and state that iNetworks does not collect advances, deposits, and/or prepayments from its customers.

- ii. iNetworks shall procure either a performance bond or an irrevocable sight draft letter of credit equal to \$25,000.
- iii. iNetworks shall file the original performance bond or irrevocable sight draft letter of credit with the Commissioner's Business Office and copies of the performance bond or irrevocable sight draft letter of credit with Docket Control, as a compliance item in this docket, within 30 days of the effective date of a Decision in this matter. The performance bond or irrevocable sight draft letter of credit must remain in effect until further order of the Commission.
- iv. The Commission may draw on the performance bond or irrevocable sight draft letter of credit, on behalf of, and for the sole benefit of, the Company's customers, if the Commission, in its discretion, finds that the Company is in default of its obligations arising from its Certificate. The Commission may use the performance bond or irrevocable sight draft letter of credit funds, as appropriate, to protect the Company's customers and the public interest and take any and all actions the Commission, in its discretion, deems necessary including, but not limited to, returning prepayments or deposits collected from the Company's customers.
- v. iNetworks shall make the necessary monthly payments to the AUSF required by A.A.C. R14-2-1204(B).

36. Staff's recommendations are reasonable and should be adopted.

CONCLUSIONS OF LAW

1. Upon receiving a CC&N, iNetworks will be a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over iNetworks and the subject matter of the Application.

3. A.R.S. § 40-282 allows a telecommunications company to file an application for a CC&N to provide competitive telecommunications services.

4. A.R.S. § 40-282 allows the Commission to grant a CC&N without first conducting a hearing if the CC&N is for resold telecommunications services.

5. Notice of iNetworks' Application was given in accordance with the law.

6. Pursuant to Article XV of the Arizona Constitution and the Arizona Revised Statutes,

1 it is in the public interest for iNetworks to provide the telecommunications services for which it has
2 requested authorization in its Application.

3 7. iNetworks is a fit and proper entity to receive a CC&N authorizing it to provide resold
4 long distance and resold local exchange telecommunications services in the State of Arizona.

5 8. The telecommunications services that iNetworks desires to provide are competitive in
6 Arizona.

7 9. Pursuant to Article XV of the Arizona Constitution and 14 A.A.C. 2, Article 11, it is
8 just and reasonable and in the public interest for iNetworks to establish rates and charges for
9 competitive services that are not less than iNetworks' total service long-run incremental costs of
10 providing the competitive services approved herein.

11 10. Staff's recommendations as set forth in Findings of Fact No. 35 are reasonable and
12 should be adopted.

13 11. iNetworks' fair value rate base is not useful in determining just and reasonable rates
14 for the competitive services it proposes to provide Arizona customers.

15 12. iNetworks' rates, as they appear in its proposed tariffs, are just and reasonable and
16 should be approved.

17 ORDER

18 IT IS THEREFORE ORDERED that the Application of iNetworks Group, Inc., for a
19 Certificate of Convenience and Necessity to provide competitive resold local exchange and resold
20 long distance telecommunications services in Arizona is hereby granted conditioned upon compliance
21 with conditions and recommendations set forth in Findings of Fact No. 35.

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1 IT IS FURTHER ORDERED that if iNetworks Group, Inc., fails to meet the conditions
 2 outlined in Findings of Fact No. 35(o) within the timeframes stated therein, the Certificate of
 3 Convenience and Necessity conditionally granted herein shall become null and void after due
 4 process.

5 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

6 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

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 8 
 9 CHAIRMAN


 COMMISSIONER

10 
 11 COMMISSIONER


 COMMISSIONER


 COMMISSIONER

12 IN WITNESS WHEREOF, I, ERNEST G. JOHNSON,
 13 Executive Director of the Arizona Corporation Commission,
 14 have hereunto set my hand and caused the official seal of the
 Commission to be affixed at the Capitol, in the City of
 15 Phoenix, this 6TH day of NOVEMBER, 2009.

16 
 17 ERNEST G. JOHNSON
 EXECUTIVE DIRECTOR

18
 19 DISSENT _____

20
 21 DISSENT _____

1 SERVICE LIST FOR: INETWORKS GROUP, INC.

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